

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and the following discussion, is respectfully requested.

Claims 1 and 3-15 are pending. In the present amendment, Claims 1, 8, and 9 are currently amended. Support for the present amendment can be found in the original specification, for example, at page 3, line 29 to page 4, line 5. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claim 9 was objected to; Claims 1 and 3-15 were rejected under 35 U.S.C. § 103(a) as unpatentable over Bellinger (U.S. Publication No. 2001/0016795) in view of Katayama (U.S. Patent No. 5,479,349).

Regarding the objection to Claim 9, it is noted that Claim 9 is hereby amended to be in independent form. Thus, it is respectfully requested that the objection to Claim 9 be withdrawn.

Turning now to the rejection of Claims 1 and 3-15 as unpatentable over Bellinger in view of Katayama, Applicant respectfully requests reconsideration of this rejection and traverses this rejection, as discussed below.

Claim 1 recites a method for control of an automatic transmission of a vehicle. As described in the original specification, this method performs down shifting under certain conditions, which do not include braking via the wheels, such that the vehicle adapts to all downhill-travel situations in which the vehicle may find itself. Thus, when a vehicle does find itself in a downhill-travel situation due to an excess speed that is above a predetermined deviation the down shifting is initiated only if the excess speed is due to the incapacity of the engine to hold the vehicle below the excess speed. Accordingly, the down shifting does not occur because of directions from a cruise control and the downhill-travel situation is not detected when the braking at the wheels occurs.

It is respectfully submitted that the cited combination does not disclose or suggest every feature recited in independent Claim 1.

Bellinger describes a system and method for controlling vehicle braking operations including a system 10 that is responsive to detection of a potential runaway vehicle condition to control engine brake unit 42, turbo charger boost pressure, service brakes 52, and/or shifting of a transmission 16.¹ Thus, Bellinger is designed to work in conjunction with the normal brakes of a vehicle to provide controlled deceleration during vehicle braking events. The system in Bellinger is designed to enhance the braking provided by a driver of the vehicle. Unlike the claimed method, Bellinger relies on engine braking and the service brakes to aid braking by the driver of the vehicle.

The Office Action acknowledges in the second paragraph on page 8 that “Bellinger does not explicitly disclose the embodiment wherein if pressure is applied to the accelerator/brake pedal, the automatic algorithm is terminated.” In fact, Applicant respectfully submits that Bellinger explicitly *teaches away* from terminating the algorithm where the brake pedal is applied since the entire disclosure of Bellinger is directed to providing controlled assistance during the vehicle braking. See MPEP § 2141.02.

Further, a person of ordinary skill in the art reading Bellinger would not combine the cancelation of cruise control taught in Katayama when the brake pedal is applied to the system described in Bellinger since this would leave Bellinger unsuitable for its intended purpose. See MPEP § 2143.01.

Accordingly, Applicant respectfully submits that the cited combination is not proper and a *prima facie* case of obviousness has not been made. Thus, it is respectfully requested that the rejection of independent Claim 1, and all claims dependent thereon, as unpatentable over Bellinger in view of Katayama be withdrawn.

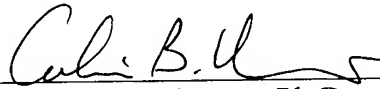
¹ See Bellinger, at paragraphs [0038] and [0039].

Further, as independent Claims 8 and 9 recite similar features to those discussed above with respect to Claim 1, Applicant also respectfully requests that the rejection of Claims 8 and 9, and all claims dependent thereon, as unpatentable over Bellinger in view of Katayama be withdrawn.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Philippe J.C. Signore, Ph.D.
Attorney of Record
Registration No. 43,922

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/09)

Colin B. Harris
Registration No. 58,969